

**AREA PLAN COMMISSION OF TIPPECANOE COUNTY  
MINUTES OF A PUBLIC HEARING**

DATE..... July 21, 2004  
 TIME..... 7:00 P.M.  
 PLACE..... County Office Building  
 20 N. 3<sup>RD</sup> Street  
 Lafayette, IN 47901

**MEMBERS PRESENT**

Mark Hermodson  
 Kathy Vernon  
 David Williams  
 John Knochel  
 KD Benson  
 Jeff Kessler  
 Gary Schroeder  
 Steve Schreckengast  
 Dr. Carl Griffin  
 Kevin Klinker  
 Mike Smith  
 Bob Bowman  
 Steve Egly

**MEMBERS ABSENT**

Lynda Phebus  
 Vicki Pearl

**STAFF PRESENT**

Sallie Fahey  
 Margy Deverall  
 Doug Poad  
 Heather Prough  
 Jay Seeger, Atty.  
 Michelle D'Andrea  
 Bianca Bullock

The Area Plan Commission of Tippecanoe County Public Hearing was held on the 21<sup>st</sup> day of July 2004, at 7:00 P.M., pursuant to notice given and agenda posted as provided by law.

Mark Hermodson called the meeting to order.

**I. BRIEFING SESSION**

Sallie Fahey informed the Commission that **UZO AMENDMENT #44** will be continued to the August 18, 2004 Area Plan Commission meeting in order for the staff to meet with the Ordinance Committee regarding possible revisions to the ordinance amendment. Also continued to the August 18, 2004 APC meeting: **Z-2196-KOMARK BUSINESS COMPANY (R3 TO NB)** because of an error in the interested persons mailing list; **S-3540-DAUGHTERY COMMERCE CENTER, PART 2 (Major-Preliminary)** because no sign was posted; **S-3541-MASON'S RIDGE (Major-Preliminary)** because no sign was posted; **Z-2191-O'MALLEY & O'MALLEY, LLC (McCormick Place) (PDRS & R1 TO PDRS)** in order for a second hearing on annexation to occur; and **Z-2193-RMD PROPERTIES (Hilltop PD) (NB TO PDNR)** as staff recommends continuance. Note that acreage in **Z-2195-CARR FAMILY FARM, LLC (R1 TO HB)** has changed from 26.44 acres to 20.7. Continued to the August 4, 2004 Executive Committee Meeting: **S-3507-THE OAKS SUBDIVISION (Minor Sketch)** in order to receive owner's consent and a letter regarding sewer availability. **S-3520-STANDIFORD MINOR SUBDIVISION (Minor-Sketch)** in order to re-advertise with the correct legal description. **S-3537-BROOKS SUBDIVISION (Minor-Sketch)** by petitioner's request. The following cases have been withdrawn: **Z-2169-ROBERT PEDIGO (A TO I3)** and **S-3461-BARR MINOR SUBDIVISION (Minor-Sketch)**.

Jeff Kessler moved to continue **Z-2196-KOMARK BUSINESS COMPANY (R3 TO NB)**, **S-3540-DAUGHTERY COMMERCE CENTER, PART 2 (Major-Preliminary)**, **Z-2191 – O'MALLEY & O'MALLEY, LLC (McCormick Place)**, **Z-2193 – RMD PROPERTIES (Hilltop PD)** and **S-3541-BARR MINOR SUBDIVISION (Minor-Sketch)** to the August 18, 2004 Area Plan Commission meeting. Kathy Vernon seconded and the motion carried by voice vote.

Jeff Kessler moved to continue **S-3507-THE OAKS SUBDIVISION (Minor-Sketch)**, **S-3520-STANDIFORD MINOR SUBDIVISION (Minor-Sketch)** and **S-3537-BROOKS SUBDIVISION (Minor-Sketch)** to the August 4, 2004 Executive Committee meeting. Carl Griffin seconded and the motion carried by voice vote.

Jeff Kessler moved to continue **UZO AMENDMENT #44** to the September 15, 2004 Area Plan Commission meeting so that the staff might meet with the Ordinance Committee regarding possible revisions to the ordinance amendment. Kathy Vernon seconded and the motion carried by voice vote

## **II. APPROVAL OF MINUTES**

Jeff Kessler moved to approve the minutes of the June 16, 2004 meeting. Kathy Vernon seconded and the motion carried by voice vote.

## **III. NEW BUSINESS**

### **A. RESOLUTION 03-1:**

A resolution regarding the hiring and firing of Area Plan Commission staff

Jeff Kessler moved to hear and approve **RESOLUTION 03-1**. Kathy Vernon seconded.

Sallie Fahey recapped the resolution, stating that the Budget & Personnel Committee voted unanimously on June 29, 2004 for a favorable recommendation.

The Commission voted by ballot 13 yes - 0 no to approve **RESOLUTION 03-1**.

### **B. RESOLUTION T-04-4**

A resolution to amend the FY 2004 Transportation Improvement Program; INDOT

Jeff Kessler moved to hear and approve **RESOLUTION T-04-4**. Kathy Vernon seconded.

Sallie Fahey recapped the resolution with a staff recommendation of approval.

The Commission voted by ballot 13 yes – 0 no to approve **RESOLUTION T-04-4**.

### **C. RESOLUTION T-04-5**

A resolution to adopt the FY 2005 Transportation Improvement Program

Jeff Kessler moved to hear and approve **RESOLUTION T-04-5**. Kathy Vernon seconded.

Sallie Fahey recapped the resolution with a staff recommendation of approval.

The Commission voted by ballot 13 yes – 0 no to approve **RESOLUTION T-04-5**.

### **D. RESOLUTION T-04-6**

A resolution to adopt FY 2005 Air Quality Assurance

Jeff Kessler moved to hear **RESOLUTION T-04-6**. Kathy Vernon seconded.

Sallie Fahey recapped the resolution with a staff recommendation of approval.

The Commission voted by ballot 13 yes – 0 no to approve **RESOLUTION T-04-6**.

## **IV. PUBLIC HEARING**

Jeff Kessler moved that the Comprehensive Plan for Tippecanoe County, the Unified Zoning Ordinance of Tippecanoe County, and the Unified Subdivision Ordinance of Tippecanoe County, Indiana, are hereby entered by reference into the public record of each agenda item. Kathy Vernon seconded and the motion carried by voice vote.

Mark Hermodson read the meeting procedures.

### **A. REZONING ACTIVITIES**

#### **1. Z-2176—WABASH VILLAGE, INC. (GB TO PDNR):**

Petitioner is requesting rezoning of 11.984 acres to expand the existing Marsh grocery store, redesign the shopping center parking lot layout and create lots for the former Lutterloh's Garden Center and C'Ray's Restaurant. The site is located

on the northeast corner of Salisbury and Navajo, West Lafayette, Wabash 7 (SE) 23-4.

Jeff Kessler moved to hear and approve the above-described request. Kathy Vernon seconded the motion.

Margy Deverall presented slides of the zoning map, 2 aerial photos, and 3 site plans.

She read the staff report with recommendation of approval, contingent on meeting all requirements of UZO 2-27-10 for submission of Final Detailed Plans, signed off by those noted in that section to include:

1. All sheets (other than preliminary plat) that make up the approved Preliminary Plan;
2. PD construction plans per UZO Appendix B2-2;
3. A final plat per UZO Appendix B-3-2 as applicable;
4. Appropriate performance bonds submitted with final detailed plans
5. Final plant schedule approval by the West Lafayette Greenspace Administrator;

**Additional Conditions:**

6. To replace signage notes on sheets 4& 5 with revised signage notes, dated 7/21/2004, prepared by Allen Jacobsen of Fisher & Associates and agreed to by all parties;
7. To revise the sign drawings on sheet 8 to reflect those changes included in the revised signage notes dated 7/21/2004.

Joseph T. Bumbleburg, PO Box 1535, Lafayette, IN concurred with staff report and requested approval.

David Buck, West Lafayette City Engineer, 609 W Navajo, West Lafayette, IN concurred with the staff report and stated the City of West Lafayette in is complete support for the planned development.

Margy Deverall read the following letters of support into the record:

David Marsh, 9800 Crosspoint Blvd, Indianapolis, IN.

Jan Mills, City of West Lafayette Mayor, 609 W Navajo, West Lafayette, IN

The Commission voted by ballot 13 yes – 0 no to recommend approval **Z-2176—WABASH VILLAGE, INC (GB TO PDNR)** to the West Lafayette City Council.

**2. Z-2183—ROBERT D. & JUDITH K. GLENN (NB & R1 TO I3):**

Petitioners are requesting rezoning of 1.67 acres of land on the southwest corner of SR 25 and CR 775 E to legitimize an existing business located at 7504N CR 775E, in the unincorporated town of Americus, Washington 16 (SE) 24-3.

CONTINUED FROM THE JUNE MEETING BY INCONCLUSIVE VOTE.

Jeff Kessler moved to hear and approve the above-described request. Kathy Vernon seconded the motion.

Sallie Fahey presented slides of the zoning map, 2 site map photos, and 2 aerial photos. She read the staff report with recommendation of denial.

Joseph T. Bumbleburg, did not agree with the staff report, specifically regarding the claim that a sheriff's department has a contract with a single wrecker service. Instead he argued that the department has a rotating list or uses a particular company per the customer's request. He submitted letters from the Delphi Police Department as well as the Carroll County Sheriff's Department that concurred with his argument. He pointed out the business on the petitioners' property, a towing service and garage, is an existing, non-conforming legal use. He claimed that the problem arises when the terms "salvage and junkyard" are used. He assured the Commission there are no great expanses of derelict vehicles, nor would the lot ever become a large junkyard, simply because it is a small lot. He stressed the problem lies in the ordinance, which does not accommodate the small businessman. He explained the petitioners' only recourse is to come to the Commission and request approval. He believes the petitioners provide a service to the community, and approval would legitimize their existing business.

Dr. Marty Meyer, 8225 Timber Lane, Lafayette, IN, stated that she has been a long-time customer of the Glenns. She mentioned several cars that the petitioners have fixed that otherwise might not have been repaired. She appreciated the service that the petitioners provided. She mentioned over the winter, when she was unable to leave her home, the Glenns went out of their way to repair her cars. She stated that this is a family business and should be considered for approval with that in mind.

Gail Schafer, 1952 Tanglewood Drive, Lafayette, IN, presented photos of the petitioners' property and her adjacent property. She pointed out that the petitioners do not have the required six-foot fence or bufferyard. The rezoning of the above-described property would affect the value of her rental property. She mentioned several incidents when the nature of the petitioners' business affected her ability to effectively operate her rental property, including the petitioners' tow-truck parked in front of her dumpster, thus rendering it inaccessible, and petitioners' customers blocking her driveway. She stated her belief that the towing service and auto repair are viable businesses, but did not believe a junkyard provides a community service and is thus opposed.

Ron Tull 7513 SR 25 N, Lafayette IN, said that he has had complaints about the ill-kept state of the junkyard. He mentioned that the County Zoning Enforcement Officer has been out to the property several times. He was also concerned about a stream behind the property and leakage of chemicals from salvaged cars leaking into the stream.

Jeff Kessler highlighted the last paragraph of the staff report, which indicated that if the request for zoning is denied, the petitioners may still operate their auto repair and towing service, thus they will not go out of business. He stated that residential areas surround the property, and the intended use was not for a junkyard.

John Knochel respectfully disagreed. He believed that denial of the zoning request would put the petitioners out of business. He stated that a tremendous amount of money would need to be invested by the petitioners to comply with the zoning as it exists. He felt that the petitioners do, in fact, provide a community service, and that it is a shame to take a small family business, especially after the number of years they have been in business, and in effect, cease their operations.

The Commission voted by ballot 5 yes – 8 no to recommend denial of **Z-2183—ROBERT D. & JUDITH K. GLENN (NB & R1 TO I3)**.

<u>Yes votes</u>	<u>No Votes</u>
John Knochel	Dave Williams
Robert Bowman	Mark Hermodson
KD Benson	Mike Smith
Steve Schreckengast	Kathy Vernon
Gary Schroeder	Jeff Kessler
	Kevin Klinker
	Carl Griffin
	Steve Egly

**3. Z-2184—JANICE K.NIELSEN (R3 TO NB):**

Petitioner is requesting rezoning of 0.17 acres of land on the southeast corner of S. 18<sup>th</sup> Street and Shoshone Drive, specifically 2409 S. 18<sup>th</sup> Street, Lafayette, Fairfield 33 (SE) 23-4.

Jeff Kessler moved to hear and approve the above-described request. Kathy Vernon seconded the motion.

Sallie Fahey presented slides of the zoning map, 2 aerial photos and one site plan. She highlighted the staff report with recommendation of approval.

Andrew Gutwein, PO Box 469, Lafayette, IN concurred with staff report and requested approval.

KD Benson asked if there were other non-conforming businesses in the same R3 zoned strip of property.

Sallie Fahey responded negatively.

The Commission voted by ballot 13 yes – 0 no to recommend approval of **Z-2184—JANICE K. NIELSEN (R3 TO NB)** to the Lafayette City Council.

**4. Z-2187—G & L DEVELOPMENT (AW TO R1 & R1A):**

Petitioner is requesting rezoning of two tracts of land: a 39.04 acre tract for R1 zoning, and a 15.91 acre tract for R1A zoning. The property is located on the east side of Dayton Road, approximately ½ mile south of SR 38, Sheffield 9 (S1/2) 22-3.

Jeff Kessler moved to hear and approve the above-described request. Kathy Vernon seconded the motion.

Sallie Fahey presented slides of the zoning map, 2 site plans, and one aerial photo. She recapped the staff report with recommendation of denial.

She read the following letters into the record:

Ron Koehler, PO Box 557, Dayton, IN 47941 in opposition.

Thomas & LaDonna Snyder, PO Box 236, Dayton, IN 47941 in support.

Bill Worley, 282 Conjunction Street, Dayton, IN 47941 in support.

Cindy Marsh, 749 Shady Lane, Dayton, IN 47941 in opposition.

Gregory Cornell, 7200 E 460 S, Lafayette, IN 47905 in opposition.

Daniel Teder, PO Box 280, Lafayette, IN, presented a handout of the site plan to the Commission. He recapped the plans for the project. He mentioned that the average lot size is 10,439 square feet, is in excess of the requirements for R1 zoning, stressing that the property is not high-density. He pointed out the Dayton Land Use Plan calls for residential zoning. He claimed this residentially-zoned project would not affect local schools, incur traffic problems, or affect the quality of life, as many opposed to the project have stated. He requested approval based on the Dayton Land Use Plan.

Russell Cook, 691 E 375 S, Lafayette IN, expressed concern regarding the affect of tract housing on his property value and on his quality of life. He said existing properties in Dayton are rural in nature, and the trend is toward higher-value, rural, ranch-style homes. He believed the subdivision will have a negative impact on his quality of life resulting from increased traffic and everyday activities that go along with an additional concentrated area of population. He stated concerns about the infrastructure improvements that would need to be made to accommodate the development. He described Dayton Road as nothing more than an asphalted cow-path. He mentioned a nearby intersection, which is closely situated to the railroad tracks. He described the alternate routes to get into Lafayette are inconvenient. He also did not believe that tract housing is a wise investment for the developers. He gave the example of rising interest rates, rapid depreciation, and difficulties the developer might have in selling the homes because of a saturated housing market.

Stuart Saunders, 3703 Dayton Road, Lafayette, IN, pointed out that his property borders the petitioner's property. He would like to see the zoning as R1 only. He said that most of the residents of Dayton are owner-occupants. He believes that because R1A zoning allows for smaller, lower-cost homes, some of the homes might become rental properties. He would like to keep residences in Dayton primarily owner-occupant.

Mike Harris, Dayton Town Council President, 6912 SR 38 E, Dayton, IN, reiterated that Dayton is not opposed to growth. He expressed a problem with the size of the lots proposed by the petitioners. He gave the example of several lots with backyards blocking swales, which are required because Dayton does not have a drainage system. He would like to prevent problems caused by a 10,000 square foot lot before they occur, since the town does not have the money, time or resources to fix the problem after it arises.

David Leininger, 764 Shady Lane, Lafayette, IN, pointed out the percentages of different lot sizes. He summed up the petitioner's intentions of creating 103 R1 lots and 66 R1A lots, which amounts to 40% of the proposed lots, would be zoned R1A. He explained that the town of Dayton is not opposing a

development that only includes 5% or 10% R1A lots, but is opposing a development in which almost half of the proposed lots are R1A.

Mike Boas, 740 Shady Lane, Lafayette, IN recapped that the Town Council of Dayton has told the petitioners that they would welcome the development with open arms if it was solely R1 zoning. He stated that it is their community and they would like to keep it the way they want. He argued with a point brought up in a letter of support, claiming the development would bring in much-needed money for new water pumps. He pointed out that the town of Dayton installed new sewage pumps several years ago. He asked that the Commission recommend denial so the petitioners will have to revise their plan to include only R1 zoning.

Gail Carmody, 709 Walnut Street, Lafayette IN, restated that there is a problem with traffic. She mentioned that with the addition of this development, traffic safety will become even more of an issue.

Dan Teder suggested that, sometime in the future, Dayton might need a traffic signal regardless of this development. He gave the example of the Deerfield subdivision, with a density of 3.6 as a positive development. He argued that the proposed subdivision has a density of only 3.07. He said that Deerfield is a subdivision that Dayton can be proud of. He stated the petitioner's request would also be a project that is positive for Dayton. He explained that utilities are available, impact fees of over \$300,000 to develop this land would be provided, and sewer bills for all residents in Dayton would go down significantly. He stressed that the developer is not the bully, the proposal is following the Dayton Land Use Plan, and he asked for approval.

KD Benson asked Jay Seeger if the wording of the Dayton Ordinance could force sewer and water availability.

Jay Seeger responded there is nothing in Dayton's Ordinance that could compel them to accept this subdivision for sewer because the ordinance only addresses accessibility within the town limits. He explained that Dan Teder's argument of whether Dayton could be forced to accept the development because all conditions and standards had been met, would be a question for the courts.

KD Benson stated that the Commission cannot rezone R1A without sewer, because the lots are too small to build a septic system per Health Code requirements.

Sallie Fahey stated that the proposal, as it stands, would not work. This property could be zoned R1A, but, to build a septic system on each lot, the lots would need to be at least 30,000 square feet to fulfill Health Code requirements.

Jeff Kessler mentioned that Sallie Fahey stated the Commission has to vote no because there is no letter confirming sewer and water.

Sallie Fahey clarified that staff must recommend denial without a commitment for sewer.

Jeff Kessler then asked Jay Seeger whether the Commission could vote for approval, when the only entity that can grant sewer has denied the petitioner's request.

Jay Seeger stated that Dayton's Ordinance does not prohibit rezoning. He explained that the Commission must consider the Comprehensive Plan, which says R1 zoning is only appropriate in areas that have adequate septic systems. He stressed that there is nothing that would prohibit the Commission from voting to approve the development if they determine it is appropriate land use.

Jeff Kessler stated that the Commission may approve the development strictly as land use, not as services acquired or available.

Jay Seeger agreed. He mentioned Sallie Fahey's earlier point that while the Commission has seen the petitioner's proposal for the subdivision, the vote is only for the rezone.

Mark Hermodson stated that there are R1 zones out in the county that have no hope of getting water or sewer service, and aren't 10,000 square foot lots.

Mike Smith asked about minimum lot sizes for R1 zoning.

Jay Seeger replied that 10,000 square feet is the minimum lot size for R1 zoning.

Mike Smith pointed out many of the lots on the site plan are exactly 10,000 square feet. One less square foot and the lots would not be eligible for R1 zoning. He feels that the developers are just squeezing out the bare minimum lot footage.

Carl Griffin asked for clarification on page three of the staff report, whether it refers to the Second Amendment of the Adopted Land Use Plan for Dayton and Vicinity or is it referring to the Comprehensive Land Use Plan.

Sallie Fahey stated that Dayton's Land Use Plan is an amendment to the Comprehensive Plan, so they are one and the same.

KD Benson stated that without water and sewer, the lots would need to be larger and lower density, thus the definition of "sprawl."

Kevin Klinker suggested that perhaps the Commission should seek legal action first to obtain a commitment for sewer and water.

Jay Seeger responded that situation would be an example of putting the cart before the horse. He explained that if the rezone is approved, the petitioners would need to then develop a plan which meets the requirements for the approved zoning.

Kevin Klinker asked if a vote of approval without a commitment for water and sewer would still allow progress.

Jay Seeger replied affirmatively.

The Commission voted by ballot 5 yes – 7 no and 1 abstention to recommend denial of **Z-2187—G & L DEVELOPMENT (AW TO R1 & R1A)** to the Tippecanoe County Commissioners.

<u><b>Yes Votes</b></u>	<u><b>No Votes</b></u>	<u><b>Abstentions</b></u>
Kevin Klinker	Steve Egly	Robert Bowman
Steve Schreckengast	Mark Hermodson	
Dave Williams	KD Benson	
Carl Griffin	Kathy Vernon	
Gary Schroeder	Mike Smith	
	Jeff Kessler	
	John Knochel	

**5. Z-2190—TJD DEVELOPMENT, LLC (Sawmill Run Phase 9 PD) (PDMX TO PDRS):**

Petitioner, Jerry Downham, is requesting rezoning of ~~.0896~~ .896 acres for a two lot development consisting of Lot 1, a single-family dwelling lot, and Outlot "A", a 10.302 acre non-buildable parcel and common area along Durkee's Run created to provide protection of vegetation, flood plain & open space. The site is located on the northwest side of Sawmill Drive between Sawdust Drive and Durkee's Run in Lafayette. Fairfield 32(NW) 23-4.

Jeff Kessler moved to hear and approve the above-described request. Kathy Vernon seconded the motion.

Margy Deverall presented slides of the zoning map, 2 aerial photos and site plan.

She read the staff report with recommendation of approval contingent on meeting all requirements of UZO 2-27-10 for submission of Final Detailed Plans, signed off by those noted in that section to include:

1. All sheets (other than preliminary plat) that make up the approved Preliminary Plan; plus a grading plan showing a proposed home at or above the flood protection grade of 562' MSL
2. PD construction plans per UZO Appendix B2-2;
3. A final plat per UZO Appendix B-3-2 as applicable;
4. Appropriate performance bonds submitted with final detailed plans
5. An Erosion and Sediment Control plan meeting the requirements of 327 IAC 15-5, approved by the Tippecanoe County Soil and Water Conservation District and the Lafayette City Engineer;
6. Storm water management approval from the Lafayette City Engineer;
7. A landscape plan submitted to the City Engineer's Office with petitioner's building permit application for review and approval by the City Forester;

**Restrictive Covenants**-The following items shall be part of the planned development's amended covenants made enforceable by the Area Plan Commission and irrevocable by the lot owners:

8. Inclusion of the statement concerning the use and ownership of outlot A;
9. Inclusion of the statement concerning amendments to the planned development:  
"Notwithstanding anything to the contrary contained herein, there shall be no amendment of the Declarations, nor any change in use or exterior design without prior approval of the Tippecanoe County Area Plan Commission through the planned development process, which includes the possibility of consideration as a minor modification by the administrative officer."

She read the following letters of support into record:

Andrew Perry, 1826 Mill Pond Lane, Lafayette, IN  
Terry Coffey, 1800 Mill Pond Lane, Lafayette, IN  
Judith Wilcox, 1814 Mill Pond Lane, Lafayette, IN  
Sara Corley, 1807 Skyline Road, Lafayette, IN  
Tim O'Bryan 1750 Skyline Road, Lafayette, IN  
Jim Smith, 2000 Durkees Run Court, Lafayette, IN  
Cynthia Eaton, 1736 Skyline Road, Lafayette, IN  
Larry Larrabee, 1830 Mill Pond Lane, Lafayette, IN  
Harold & Linda Wolfe, 1842 Mill Pond Lane, Lafayette, IN  
Greg & Connie Myszkowski, 1802 Skyline Drive, Lafayette, IN  
Julia Rodkey, 1838 Mill Pond Lane, Lafayette, IN  
Thomas & Nancy Cowgill, 1926 Windy Hill Dr, Lafayette, IN

Joseph Bumbleburg pointed out that Sawmill Run was one of the original planned developments in Tippecanoe County, and has grown incrementally since then. He mentioned that the petitioner builds quality homes and would build the home consistent with the existing Sawmill Run covenants. He concurred with the staff report and requested approval.

Mark Hermodson noted a discrepancy in the description of the property. He said should read .896 acres, not .0896 acres.

Jeff Kessler moved to amend the acreage in regards to Z-2190 – TJD DEVELOPMENT from .0896 to .896 acres. Kathy Vernon seconded and the motion carried by voice vote.



Kim Urr, 221 Sawdust Drive, Lafayette, IN, introduced herself as the president of the Sawmill Run Homeowners' Association. She has expressed concerns over erosion, removal of trees and the building of duplexes to the petitioner. On behalf of the Association, she expressed appreciation for Mr. Downham, as he has addressed every one of their concerns and are in approval of the plan.

John Fields, 200 Sawdust Drive, Lafayette, IN, said that he is opposed to this development. He informed the Commission that he saw JTC-Downham Builders openly burning materials near Mill Pond Road. He said if the petitioner was a reputable builder, he should be aware of the restrictions against open burning. He presented pictures of a property that was zoned and developed earlier this year, and pointed out erosion of the land. He mentioned the area is home to wildlife and he is opposed to it being disturbed. He is stated his opposition to rezoning areas on both sides of Durkee's Run.

KD Benson pointed out that the land Mr. Fields is speaking of on either side of Durkee's Run is zoned Flood Plain, and could not be developed.

Jeff Kessler mentioned the land has considerable topographical challenges, but he is confident that Jerry Downham's work will be done correctly.

The Commission voted by ballot 13 yes – 0 no to recommend approval of **Z-2190—TJD DEVELOPMENT, LLC (Sawmill Run Phase 9 PD)** to the Lafayette City Council.

- 6. Z-2192-WILLIAM FLEISCHAUER (Chauncey Square PD) (R3W TO PDMX):**  
 Petitioner is requesting rezoning of 1.726 acres for a 5-story mixed use development with 127, 1, 2, 3, & 4 bedroom apartments (281 bedrooms), leasing office, 12,033 sq. ft. retail space with 12 surface spaces and a 470 space parking garage to serve the project. Located on the block northeast of South St. and North Chauncey on the current site of First United Methodist Church, in West Lafayette, Wabash 19 (NE) 23-5.

Jeff Kessler moved to hear and approve the above-described request. Kathy Vernon seconded the motion.

Margy Deverall presented slides of the zoning map and 2 aerial photos. She then read the staff report with recommendation of approval, contingent on meeting all requirements of UZO 2-27-10 for submission of Final Detailed Plans, signed off by those noted in that section to include:

1. All sheets (other than preliminary plat) that make up the approved Preliminary Plan:
2. PD construction plans per UZO Appendix B2-2;
3. A final plat per UZO Appendix B-3-2 as applicable;
4. Appropriate performance bonds submitted with final detailed plans
5. Plant schedule approved by the West Lafayette Greenspace Administrator

Sallie Fahey pointed out that there should be a sixth condition added: the alley would need to be vacated prior to final detailed approval.

Carl Griffin said, based on the site plan, the alley does not go all the way through from east to west. He believes that the north of the alley is considered part of the proposed parking lot.

Sallie Fahey agreed that the physical improvements do not go all the way through, although the platted land does exist all the way through.

Jeff Kessler moved to add condition #6 as described above to **Z-2191- WILLIAM FLEISCHHAUER (Chauncey Square PD)**. Kathy Vernon seconded and the motion carried by voice vote.

Paul Coutts, C&S Engineering, 1719 Monon Avenue, Lafayette, IN, concurred with the staff report. He mentioned the collaboration that went on between entities to get this project done. He pointed out the project is in a great location for student housing and helping with the traffic situation on campus by keeping student cars at their residence. He said the project will be good for the area, adding retail properties to the Chauncey Village. He submitted a color rendering of the project and requested approval.

Kurt Wahl, Wahl Architecture, 211 Alabama St, Lafayette, IN, used the previously submitted color rendering to show that the façade of the building is consistent with the rest of its surroundings. He believed the development is a good fit for the neighborhood.

Mary Russell, First United Methodist Church, 102 N Chauncey Ave, West Lafayette IN expressed approval for the well thought-out and appropriate development on behalf of the church.

KD Benson asked where the outdoor seating for the restaurant would be located.

Paul Coutts pointed out the seating would be located on the corner of Chauncey and South Streets, to the right of the entrance.

The Commission voted by ballot 12 yes – 0 no and 1 abstention to recommend approval of **Z-2192-WILLIAM FLEISCHAUER (Chauncey Sqaure PD) (R3W TO PDMX)** to the West Lafayette City Council.

<u>Yes Votes</u>	<u>No Votes</u>	<u>Abstentions</u>
Mark Hermodson		Carl Griffin
Steve Schreckengast		
Kevin Klinker		
Jeff Kessler		
KD Benson		
John Knochel		
Mike Smith		
David Williams		
Kathy Vernon		
Robert Bowman		
Gary Schroeder		

**8. Z-2194-STEVE FIRESTONE (I3 TO GB):**

Petitioner is requesting rezoning of 3244 McCarty Lane, a portion of Lot 2, C.N.G. Commercial Subdivision, located on the south side of McCarty between Sagamore Parkway and Main Street, Lafayette, Fairfield 34 (NW) 23-4.

Jeff Kessler moved to hear and approve the above-described request. Kathy Vernon seconded the motion.

Sallie Fahey presented slides of the zoning map and 2 aerial photos. She read the staff report with recommendation of approval.

Steven M. Firestone, 921 Logan Ave, Lafayette, IN 47905 concurred with the staff report and requested approval.

The Commission voted by ballot 13 yes – 0 no to recommend approval of **Z-2194-STEVE FIRESTONE (I3 TO GB)** to the Lafayette City Council.

**9. Z-2195 CARR FAMILY FARM, LLC (R1 TO HB):**

Petitioner is requesting rezoning of 20.7 acres located on the north side of Hine Drive, just northeast of the SR 38/I-65 northbound ramps, Dayton, Sheffield 5 (SE) 22-3.

Jeff Kessler moved to hear and approve the above-described request. Kathy Vernon seconded the motion.

Sallie Fahey presented slides of the zoning map and 2 aerial photos. She read the staff report with recommendation of approval.

Dan Teder concurred with the staff report and requested approval.

Melinda Quirk, 6434 SR 38 E, Lafayette, IN stated she was the only resident in the above-described strip of land. She said she was not opposed to a general business zoning, however she is concerned about the possibility of the petitioner's business serving as a truck stop. She expressed concerns about the capability of Hine Drive to accommodate added traffic associated with a motel, and the safety of her children who ride the school bus in the morning.

Kelly Carr, 6 Hitching Post Road, West Lafayette, IN reassured Ms. Quirk that he has no desire to build a truck stop, claiming that a truck stop would hurt his property values as well as property in the surrounding area.

Carl Griffin asked to see the previous slide as to gain a better understanding of where Ms. Quirk's property is located. He asked where the curb cuts are for the gas station on the south side of SR 38.

Robert Bowman replied across from Yost Drive.

The Commission voted by ballot 13 yes – 0 no to recommend approval of **Z-2195-CARR FAMILY FARM, LLC (R1 TO HB)** to the Tippecanoe County Commissioners.

#### **C. SUBDIVISIONS**

##### **1. S-3534—RICKS MINOR SUBDIVISION (Minor-Sketch):**

Petitioner is seeking primary approval for a 1 lot subdivision of 2.70 acres located at the southwest corner of 700 S and 450 E, specifically, 7006 S CR 450 E, Wea 36 (NW) 22-4. CONTINUED FROM THE JULY EXECUTIVE COMMITTEE MEETING BECAUSE OF AN ERROR IN THE LETTERS TO INTERESTED PARTIES.

Jeff Kessler moved to hear and approve the above-described request. Kathy Vernon seconded the motion.

Sallie Fahey presented slides of the zoning map, 2 aerial photos and preliminary plat. She read the staff report with recommendation of conditional primary approval contingent on the following conditions:

**FINAL PLAT** – The following items shall be part of the Secondary Application and Final Plat approval:

1. If there is a mortgage on this property, a recorded partial release or written acknowledgment from the mortgage company must be obtained in order to dedicate the necessary right-of-way.
2. All existing easements, covenants or restrictions shall be shown and referenced with the corresponding recording information (Document Number and date recorded).
3. All required building setbacks shall be platted.
4. The street addresses and County Auditor's Key Number shall be shown.

Pat Cunningham, Vester & Associates, 309 Columbia Street, Ste 101, Lafayette, IN concurred with the staff report and requested approval.

The Commission voted by ballot 13 yes – 0 no for conditional primary approval of **S-3534—RICKS MINOR SUBDIVISION (Minor-Sketch).**

##### **2. S-3538-LAUREN LAKES (Major-Preliminary)**

Petitioner is seeking primary approval for a 677-lot single-family subdivision on 231.23 acres. The site is located on the south side of CR 500 N, between CR 50

W (Country Farm Road) and CR 75 E, across from Winding Creek Subdivision in Wabash 31 (NE) 24-4 and Tippecanoe 32 (NW) 24-4.

Jeff Kessler moved to hear and vote on the above-described request. Kathy Vernon seconded the motion.

Sallie Fahey presented slides of the zoning map, 2 aerial photos and preliminary plat. She read the staff report with recommendation of conditional primary approval contingent on the following:

**CONDITIONS**

1. Street names shall be approved by 911, the Post Office and APC Staff for inclusion in the construction plans and on the final plat.
2. Depending on the outcome of the wetland mitigation, the construction plans and final plat shall show the results. Some affected lots may need to be designated as non-buildable.

**CONSTRUCTION PLANS** – The following items shall be part of the Construction Plans application and approval:

3. The West Lafayette City Engineer shall approve the sanitary sewer plans for the Tippecanoe Township part of the subdivision.
4. American Suburban Utilities, Inc shall approve the sanitary sewer plans for the Wabash Township part of the subdivision.
5. Indiana-American Water Company, Inc shall approve the water plans.
6. The Wabash and Tippecanoe Township Fire Departments shall approve the fire hydrants in their respective jurisdictions. Plans for the actual placement of the hydrants shall be approved by the Indiana-American Water Company in cooperation with the Fire Departments.
7. An Erosion and Sediment Control Plan meeting the requirements of 327 I.A.C. 15-5 shall be approved by the Tippecanoe County Soil and Water Conservation District and meeting the requirements of the County Drainage Board as required by Tippecanoe County Ordinance #93-18-CM.
8. The County Drainage Board shall approve the drainage plans.
9. An on-site utility coordinating sheet shall be approved and signed-off by the non-government utility companies. If any of these utilities are being extended from an off-site location, this extension shall be made a part of the utility coordinating sheet.

**FINAL PLAT** – The following items shall be part of the Secondary Application and Final Plat approval:

10. "No Vehicular Access" statements shall be platted along the CR 500 N and entrance street right-of-way lines, as shown on the preliminary plat.
11. If there is a mortgage on this property, a recorded partial release or written acknowledgment from the mortgage company must be obtained in order to dedicate the necessary right-of-way.
12. All existing easements, covenants or restrictions shall be shown and referenced with the corresponding recording information (Document Number and date recorded).
13. All required building setbacks shall be platted, including the required 40-ft.

setback along CR 500 N.

14. The street addresses and County Auditor's Key Number shall be shown.

**SUBDIVISION COVENANTS** – The following items shall be part of the subdivision covenants:

15. The "No Vehicular Access" restriction shall be made enforceable by the Area Plan Commission and irrevocable by the lot owners.
16. The purpose, ownership and maintenance of the outlots shall be specified.

She read the following letter into the record:

George W. Hynd, 17 Grapevine Place, West Lafayette, IN in opposition.

Mark Hermodson reviewed subdivision voting procedures.

Joseph T. Bumbleburg concurred with the staff report, stating the petitioner's request is compliant with subdivision ordinance requirements in addition to the staff conditions and covenants. He requested bonding and approval.

Gary Dale, 5283 Grapevine Drive, West Lafayette, IN, stated he was concerned, primarily, about drainage. He pointed out the plan called for 677 lots, with an average of 1,500 square feet of roof, equaling approximately 1,000,000 square feet of roofs. He said the proposed subdivision has less than 970,000 square feet of outlots which could be used as retention ponds, with the remaining drainage flowing toward CR 500 N. He is concerned about potential destruction from flooding and erosion of CR 500 N.

Brian Emmons, 1014 N. 9<sup>th</sup> Street, Lafayette, IN, will be moving to 5244 Grapevine Drive shortly. He mentioned a case that was brought to Area Plan Commission three months ago in which all of the Commission members voted no on a Planned Development from the same petitioner. He pointed out that the subdivision is neither aesthetically pleasing nor imaginative. He does not think that the City of Lafayette wants this kind of subdivision.

Steve Conners, PO Box 5791, Lafayette, IN, said he is the developer of the Winding Creek Subdivision. He agreed that the proposed subdivision is poorly designed. He pointed out the road layout of the subdivision is not well thought out, as CR 500 N cannot handle the increased traffic and would need stoplights.

Mark Hermodson emphasized the Commission does not have discretion when voting on subdivisions. He explained that unless the subdivision does not meets a requirement in the subdivision ordinance, the Commission must vote for approval.

Mike Smith asked to clarify if the Commission must vote yes or cannot vote no.

Mark Hermodson stated the Commission cannot vote no but may abstain.

Mike Smith asked if a Commission member could legally abstain.

Jay Seeger replied a Commissioner's role is to vote, although an abstention is considered as voting with the majority.

Mark Hermodson said if all the members abstained, the subdivision would be placed on next month's agenda.

Gary Dale asked to whom he would need to air his concerns about drainage.

Mark Hermodson answered the Drainage Board. He explained that water cannot drain from the subdivision any faster than it does right now.

Steve Schreckengast expressed concern regarding the subdivision plan and its creativity. He then asked the staff to make the exception that the adjoining property would not be obligated to have a road connecting to this subdivision.

Kevin Klinker stated that he hopes C.P. Morgan does give opportunities to local contractors when they plan a subdivision.

Steve Schreckengast believed that the planned subdivision is indicative of what can be expected from C.P. Morgan and Mann Properties.

Mark Hermodson reiterated the subdivision was grossly unimaginative.

Steve Egly asked if there was Tippecanoe Township Land Use Plan.

Sallie Fahey mentioned there have been several attempts to create a Tippecanoe Township Land Use Plan, but there was never a consensus and the process was given up. She pointed out there is a Land Use Plan for the Battle Ground area.

The Commission voted by ballot 13 yes – 0 no to permit bonding for all public improvements.

The Commission voted by ballot 13 yes – 0 no for conditional primary approval of **S-3538—LAUREN LAKES (Major-Preliminary)**.

**3. S-3542-WINDING CREEK, SECTION 4(Major-Preliminary):**

Petitioner is seeking primary approval for a 47-lot subdivision on 30.2 acres, located on the south side of CR 600 N, approximately ½ mile west of CR 75 E, in Tippecanoe 29 (NW) 24-4.

Jeff Kessler moved to hear and vote on the above-described request. Kathy Vernon seconded the motion.

Sallie Fahey presented slides of the zoning map, 2 aerial photos and preliminary plat. She read the staff report with recommendation of conditional primary approval contingent on the following conditions:

**VARIANCES**

1. A variance from the required right angle distance of 100-ft. to 37.99-ft. on Turnberry Court at the intersection with Augusta Boulevard.
2. A variance from the minimum tangent length of 100-ft. between reverse curves on Augusta Boulevard to 41.73-ft. between Augusta Lane and Turnberry Court.

**CONSTRUCTION PLANS** – The following items shall be part of the Construction Plans application and approval:

3. A waiver from Tippecanoe School Corporation to allow the 50-ft. radius right-of-way for the turnaround at the end of Colonial Court.
4. American Suburban Utilities, Inc shall approve the sanitary sewer plans.
5. Indiana-American Water Company, Inc shall approve the water plans.
6. The Tippecanoe Township Fire Department shall approve the fire hydrants. Plans for the actual placement of the hydrants shall be approved by the Water Company in cooperation with the Fire Department.
7. An Erosion and Sediment Control Plan meeting the requirements of 327 I.A.C. 15-5 shall be approved by the Tippecanoe County Soil and Water Conservation

District and meeting the requirements of the County Drainage Board as required by Tippecanoe County Ordinance #93-18-CM.

8. The County Drainage Board shall approve the drainage plans.
9. An on-site utility coordinating sheet shall be approved and signed-off by the non-government utility companies. If any of these utilities are being extended from an off-site location, this extension shall be made a part of the utility coordinating sheet.

**FINAL PLAT** – The following items shall be part of the Secondary Application and Final Plat approval:

10. Except for the entrance – Augusta Boulevard, a "No Vehicular Access" statement shall be platted along the CR 600 N right-of-way line, including Lots 48 and 49. An internal access easement shall be provided for these lots from one of the new subdivision streets.
11. If there is a mortgage on this property, a recorded partial release or written acknowledgment from the mortgage company must be obtained in order to dedicate the necessary right-of-way.
12. All existing easements, covenants or restrictions shall be shown and referenced with the corresponding recording information (Document Number and date recorded).
13. All required building setbacks shall be platted.
14. The street addresses and County Auditor's Key Number shall be shown.

**SUBDIVISION COVENANTS** – The following items shall be part of the subdivision covenants:

15. The "No Vehicular Access" restriction shall be made enforceable by the Area Plan Commission and irrevocable by the lot owners.
16. The purpose, ownership and maintenance of the outlots shall be specified.

Mike Smith inquired as to which section conditions 15 and 16 should be placed.

Sallie Fahey answered condition 15 relates to Construction Plans and condition 16 relates to the Final Plat.

Joseph T. Bumbleburg informed the Commission that the Tippecanoe County School Corporation waiver, in regards to condition 3, has already been granted. He requested approval and bonding.

In The Commission voted by ballot 13 yes – 0 no to approve the two variances.

The Commission voted by ballot 13 yes – 0 no to permit bonding for all public improvements.

The Commission voted by ballot 13 yes – 0 no for conditional primary approval of **S-3542—WINDING CREEK, SECTION 4 (Major-Preliminary).**

## **V. ADMINISTRATIVE MATTERS**

*None*

## **VI. APPROVAL OF THE AUGUST EXECUTIVE COMMITTEE AGENDA**

Jeff Kessler moved that the following subdivision petitions be placed on the August 4, 2004 Executive Committee Agenda at petitioner's request, placement thereon being without reference to compliance or non-compliance with the adopted subdivision ordinance:

**S-3544 – BEUMELS MEADOW SUBDIVISION (Minor Sketch)**

**S-3547- MIKE'S EXPRESS CARWASH MINOR SUBDIVISION (Minor Sketch)**

Kathy Vernon seconded and the motion carried by voice vote.

**VII. DETERMINATION OF VARIANCES – AREA BOARD OF ZONING APPEALS**

Jeff Kessler moved that the following requests for variance from the Unified Zoning Ordinance are not requests for use variance, prohibited from consideration by ordinance and statute.

**Z-1670 – ERIC S. & DONNA FERGASON**

Kathy Vernon seconded and the motion carried by voice vote.

**VIII. DIRECTOR'S REPORT**

Sallie Fahey presented a written Director's Report. She highlighted the following topics from the report: updates on the transportation bill; finalization of fourth quarter billing for the 04 FY, annual completion report; flood plain workshop information – pointing out cooperation with FEMA on the Community Technical Partners program to redo the flood maps. Also included was a report on the meeting of the Budget & Personnel Committee. Sallie also mentioned that she will be on vacation beginning Saturday, July 24, 2004 and Margy Deverall will be the Secretary Pro Tempore according to the by-laws.

**IX. CITIZENS' COMMENTS AND GRIEVANCE**

Jeff Kessler mentioned he appreciated the staff's willingness to condense information from the staff reports.

**X. ADJOURNMENT**

Carl Griffin moved for adjournment. KD Benson seconded and the motion carried by voice vote.  
The meeting was adjourned at 10:00 P.M.

Respectfully submitted,



Bianca Bullock  
Recording Secretary

Reviewed by,

Margy Deverall  
Assistant Director